



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

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Docket No. 1145-22
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 21 April 2022. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations and policies. The Board also considered the 1 March 2022 advisory opinion (AO) from a qualified medical professional, a copy of which was provided to you, and to which you did not provide a response.

A review of your record shows that you entered active duty in the Navy and commenced a period of active duty on 25 June 2001. From September 2005 to February 2006, you deployed in support of █. On 26 November 2011, you were released from active duty at the completion of your required service with an RE-R1 reentry code. Your final performance evaluation noted that you were a strong performer during your entire tour and that you would find success in any future assignment.

In your petition, you have requested that your separation be changed from voluntary to a medical retirement. In support of your request, you contend that you suffered from post-traumatic stress disorder (PTSD) as a result of your service in █. You provided a finding from the Department of Veterans' Affairs (VA), which assigned you a service connected disability rating for PTSD.

To assist the Board in evaluating your petition, it obtained the 1 March 2022 AO. According to the AO:

Available in-service records did not contain evidence of a diagnosed mental health condition, or of psychological symptoms/behavioral changes indicative of a diagnosable mental health condition. The Petitioner has provided post-service evidence that she incurred a mental health condition attributed to her military service, as well as other medical conditions.

Unfortunately, there was no information from the Petitioner or available records explaining the basis for the post-service diagnosed PTSD condition. The lack of clarifying information made available did not provide enough markers to establish an onset and development of mental health symptoms or identify any occupational impairment. Her contention of unfitness is not supported by the objective evidence as her in-service record demonstrated successful performance of her duties and successful completion of demanding in-service schools and military training (such as Advanced X-Ray Technician School, after the contended traumatic episode). Her performance evaluations and record of achievement throughout her military service do not show any evidence of occupational impairment or unfitness for duty.

The AO concluded that, “the preponderance of evidence provides insufficient support for the request. This is due to the presence of objective evidence that the applicant’s duty performance was judged to have been adequate at the time of separation. Had referral to the PEB occurred, a finding of fit to continue naval service would have been the likely result.”

The Board carefully considered your arguments. Unfortunately, the Board disagreed with your rationale for relief. In order to qualify for military disability benefits through the Disability Evaluation System with a finding of unfitness, a service member must be unable to perform the duties of their office, grade, rank or rating as a result of a qualifying disability condition. Alternatively, a member may be found unfit if their disability represents a decided medical risk to the health or the member or to the welfare or safety of other members; or the member’s disability imposes unreasonable requirements on the military to maintain or protect the member.

In your case, the Board determine the preponderance of the evidence did not support a finding that you met any of the criteria for unfitness. The Board concurred with the findings of the AO. In particular, the Board observed that you had a positive final performance evaluation and you were assigned an RE-R1 reentry code. Thus, there is no evidence that you were unable to perform within your rating at the time of your discharge. The Board also noted the lack of evidence of an unfitting condition while you were on active duty. With respect to your contention that the fact the VA rated you for service connected disability conditions, the Board observed that eligibility for compensation and pension disability ratings by the VA is tied to the establishment of service connection and is manifestation-based without a requirement that unfitness for military duty be demonstrated. Accordingly, the Board found insufficient evidence of error or injustice to warrant a change to your record.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in

mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

5/19/2022

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Executive Director

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